

REMARKS

Applicants wish to express their appreciation to the Examiner for her thorough examination as evidenced by the Office Action mailed February 26, 2003. The Examiner noted the use of the trademark LABVIEW in the specification and requested that the specification include the capitalization of the trademark to respect the proprietary nature of the mark. In this respect, the specification has been amended to properly identify the trademark LABVIEW in accordance with MPEP 608.01(v).

Response to 35 U.S.C. §102 Rejection

Claims 1-20 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Grey et al.* (U.S. Patent No. 6,401,220). Applicants respectfully traverse this rejection on the grounds that *Grey et al.* does not teach or suggest all of the claimed elements.

Claim 1:

Independent claim 1 is directed to an “***active data type***” which comprises an “***identifier***” and “***at least a first algorithm.***” *Grey et al.* does not teach or suggest these features. For instance, *Grey et al.* teaches in col. 5, lines 5-7, as pointed out in the Office Action, that the “step type” is a “modular, identifiable unit.” It should be noted, however, that this passage is not referring to an “***active data type***” as claimed, but instead refers to a “step type.” In test executive software, a “data type” refers to data values and a “step type” refers to steps in an executable sequence. Therefore, *Grey et al.* does not disclose an “***active data type***” having the respective features as claimed.

Even assuming, for the sake of argument, that the step type of *Grey et al.* were actually an active data type, *Grey et al.* still fails to teach that the type includes an “***identifier.***” Although the step type of *Grey et al.* is defined as a modular “identifiable” unit, it appears that this term is taken out of context in the Office Action. The meaning of this passage in *Grey et al.* seems to refer instead to the step type being configured by a user through a graphical user interface, wherein the step type is a modular unit that can be identified by the user. *Grey et al.* does not teach that an “active data type” actually comprises an “***identifier***” as claimed.

Furthermore, *Grey et al.* fails to teach or suggest an active data type comprising ***“at least a first algorithm,”*** which is configured to be executed ***“when an attempt is made to access a value associated with the active data type instance.”*** Not only does *Grey et al.* fail to teach an active data type having an algorithm, but *Grey et al.* also fails to teach or suggest an algorithm that runs when an attempt is made to access a value associated with the active data type instance, as further claimed in claim 1.

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Since *Grey et al.* does not disclose each element of claim 1, Applicants respectfully request that the rejection of claim 1 be withdrawn.

Claim 10:

Independent claim 10 is directed to an apparatus for executing a computer program that utilizes at least one active data type. The ***“active data type”*** is defined as ***“having an identifier and at least a first algorithm associated therewith.”*** *Grey et al.* fails to teach or suggest an “active data type” that has an identifier and an algorithm. For at least this reason, it is believed that claim 10 is allowable over the reference of record. Reconsideration of the rejection and withdrawal are respectfully requested.

Claim 16:

Independent claim 16 is a method for utilizing an active data type in a computer program, including the steps of ***“identifying an instance of the active data type with an identifier”*** and ***“automatically executing a first algorithm when an attempt is made to access a value associated with the active data type instance.”*** Anticipation requires identity of the claimed process and a process of the prior art. The claimed process, including each step thereof, must have been described or embodied, either expressly or inherently, in a single reference. *See, e.g., Glaverbel S.A. v. Northlake Mkt'g & Supp., Inc.*, 45 F.3d 1550, 33 USPQ 2d 1496 (Fed. Cir. 1995).

Grey et al. does not teach or suggest either of the above steps. *Grey et al.* also fails to disclose the use of an identifier or an algorithm that is executed when an attempt is made to access a value associated with the active data type instance. If the Examiner believes that such features are disclosed in the reference of *Grey et al.*, it is respectfully requested that the Examiner point out specific passages where these features might be found. Since Applicants believe that these elements do not exist in *Grey et al.* and are neither taught nor suggested by this reference, it is respectfully requested that the rejection be withdrawn and the pending claims passed to issue.

Claims 2-9, 11-15, and 17-20:

Dependent claims 2-9, 11-15, and 17-20 are believed to be allowable for at least the reason that these claims depend from allowable independent claims 1, 10, or 16. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

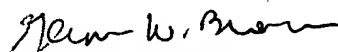
Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed and/or accommodated, and that the now pending claims 1-20 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

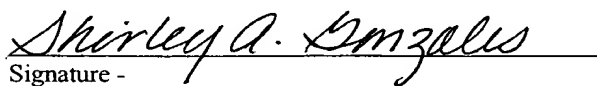
Respectfully submitted,


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